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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

ROSE STAUPÉ,

Plaintiff,

v.

Experian Information Solutions, Inc.;  
Equifax, Inc.; Capital One, National  
Association and DOES 1 through 100  
inclusive,

Defendants.

CASE NO.

COMPLAINT FOR DAMAGES:

1. Violation of Fair Credit Reporting Act;
2. Violation of California Consumer Credit Reporting Agencies Act

COMES NOW Plaintiff ROSE STAUPÉ, an individual, based on information and belief, to allege as follows:

**INTRODUCTION**

1. This case arises under the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2(b) and the California Consumer Credit Reporting Agencies Act, California Civil Code §1785.25(a). Plaintiff seeks redress for the unlawful and deceptive practices committed by the Defendants in connection with their inaccurate reporting of Plaintiff's debt included in Plaintiff's Chapter 7 bankruptcy.

**JURISDICTION & VENUE**

2. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and

every paragraph above, fully set forth herein.

3. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337, and 1367, and 15 U.S.C. § 1681

4. This venue is proper pursuant to 28 U.S.C. §1391(b).

**GENERAL ALLEGATIONS**

5. Plaintiff filed for Chapter 7 bankruptcy protection on February 27, 2015 in order to reorganize and repair Plaintiff's credit. Plaintiff's Chapter 7 plan of financial reorganization was discharged on June 2, 2015.

6. On September 16, 2015 Plaintiff ordered a three bureau report from Equifax, Inc. to ensure proper reporting by Plaintiff's creditors.

7. Plaintiff noticed several tradelines all reporting misleading and inaccurate account information.

8. Defendant Capital One, National Association was reporting Plaintiff's account, beginning in 5488, as in collections and charged off, despite Plaintiff's chapter 7 discharge.

9. Defendant Capital One, National Association was reporting Plaintiff's account, beginning in 5178, as in collections and charged off, despite Plaintiff's chapter 7 discharge.

10. Defendant Capital One, National Association was reporting Plaintiff's account, beginning in 4388, as in collections and charged off, despite Plaintiff's chapter 7 discharge.

11. In response to the perceived inaccuracies on Plaintiff's credit report, Plaintiff disputed the inaccurate tradelines via certified mail with Experian Information Solutions, Inc.; Equifax, Inc.; and TransUnion, LLC.

12. Plaintiff is informed and believes that each credit reporting agency sent each Defendant notification that plaintiff was disputing the accuracy of what it was reporting to them.

13. Defendant Capital One, National Association failed to conduct a reasonable investigation and continued to report falsely to Experian Information Solutions, Inc. misleading and inaccurate account information as identified above in Paragraphs 8-10.

1 14. Alternatively, Experian Information Solutions, Inc. failed to perform its own  
2 reasonable investigation and failed to correct the inaccuracies and failed to note that Plaintiff  
3 disputed the information. After the statutory time period passed for Experian Information  
4 Solutions, Inc. to update the report Plaintiff pulled a second credit report and noticed that no  
5 updates had been made to the tradeline in dispute.

6 15. Alternatively, Equifax, Inc. failed to perform its own reasonable investigation and  
7 failed to correct the inaccuracies and failed to note that Plaintiff disputed the information.  
8 After the statutory time period passed for Experian Information Solutions, Inc. to update the  
9 report Plaintiff pulled a second credit report and noticed that no updates had been made to the  
10 tradeline in dispute

11 16. On March 25, 2016 Plaintiff ordered a second three bureau report from Equifax, Inc.  
12 to ensure the accounts that were in dispute were being properly reported.

13 17. Plaintiff's accounts were disputed but the Defendant and Experian Information  
14 Solutions, Inc. failed to correct the misleading and inaccurate statements on the account within  
15 the statutory time frame or, alternatively, at all.

16 18. The credit bureaus have an obligation to delete the tradeline when a response is not  
17 received by the furnisher within the statutory time frame.

18 19. The actions of the Defendants as alleged herein are acts in violation of the Fair Credit  
19 Reporting Act, 15 U.S.C. § 1681s-2(b).

20 20. The actions of the Defendants as alleged herein are acts in violation of the consumer  
21 credit reporting agencies act California Civil Code § 1785.25(a).

22 **FIRST CAUSE OF ACTION**  
23 (Violation of Fair Credit Reporting Act  
24 15 U.S.C. § 1681s-2(b))  
(Against Defendants and Does 1-100)

25 **Experian Information Solutions, Inc.; Equifax, Inc.- Failure to Reinvestigate Disputed**  
26 **Information.**

27 21. Plaintiff realleges and incorporates herein the allegation in each and every paragraph  
28 above as though fully set forth herein.

22. After Plaintiff disputed the accounts mentioned above, Defendant Experian Information

1 Solutions, Inc. and Equifax, Inc. were required to conduct a reasonable investigation and to  
2 delete any information that was not accurate. In doing so, Defendant was required to send all  
3 relevant information to the furnishers which they did not do. Defendant failed to correct the  
4 misleading and or inaccurate statements on the account within the statutory time frame or at all.

5 **Capital One, National Association – Reporting Inaccurate Information to Defendant**  
6 **Experian Information Solutions, Inc. and Equifax, Inc. and Failure to Reinvestigate.**

7 23. Plaintiff realleges and incorporates herein the allegation in each and every paragraph  
8 above as though fully set forth herein.

9 24. 15 USC 1681s-2(b) prohibits furnishers from providing any information relating to a  
10 consumer to any consumer reporting agency if the person knows or has reasonable cause to  
11 believe that the information is inaccurate or misleading and requires a furnisher to update and  
12 or correct inaccurate information after being notified by a consumer reporting agency of a  
dispute by a consumer.

13 25. Defendant Capital One, National Association violated section 1681s-2(b) by failing to  
14 conduct a reasonable investigation and re-reporting misleading and inaccurate account  
15 information regarding Plaintiff's accounts. Defendant Experian Information Solutions, Inc.  
16 provided notice to the defendants that Plaintiff was disputing the inaccurate and misleading  
17 information but each of the Defendants failed to conduct a reasonable investigation of the  
18 information as required by the FCRA.

19 26. Specifically, Defendant Capital One, National Association (account beginning in 5488)  
20 supplied inaccurate and misleading information to the Credit Reporting Agencies by reporting,  
21 after Plaintiff's chapter 7 filing and discharge, that the account was in collections and charged  
22 off, despite Plaintiff's chapter 7 discharge.

23 27. Defendant Capital One, National Association (account beginning in 5178) supplied  
24 inaccurate and misleading information to the Credit Reporting Agencies by reporting, after  
25 Plaintiff's chapter 7 filing and discharge, that the account was in collections and charged off,  
despite Plaintiff's chapter 7 discharge.

26 28. Defendant Capital One, National Association (account beginning in 4388) supplied  
27 inaccurate and misleading information to the Credit Reporting Agencies by reporting, after  
28

1 Plaintiff's chapter 7 filing and discharge, that the account was in collections and charged off,  
2 despite Plaintiff's chapter 7 discharge.

3 **SECOND CAUSE OF ACTION**

(Violation of California Consumer Credit Reporting Agencies Act  
4 California Civil Code § 1785.25(a))  
5 (Against Defendants and Does 1-100)

6 **Capital One, National Association – Reporting Inaccurate Information to Defendant  
Experian Information Solutions, Inc. and Equifax, Inc.**

7  
8 29. Plaintiff realleges and incorporates herein the allegation in each and every paragraph  
above as though fully set forth herein.

9 30. Defendant Capital One, National Association intentionally and knowingly reported  
10 misleading and inaccurate account information to Experian Information Solutions, Inc. and  
11 Equifax, Inc.

12 31. Plaintiff alleges that Defendant re-reported misleading and inaccurate account  
13 information, as stated in paragraphs 8-10 and 26-28 to Experian Information Solutions, Inc.  
14 and Equifax, Inc. in violation of California Civil Code § 1785.25(a).

15 32. Plaintiff also alleges that Defendants had reason to know that the information reported  
16 on Plaintiff's accounts were misleading and inaccurate.

17 33. Plaintiff alleges that the bankruptcy notices, disputes letters from all three credit  
18 reporting agencies, the consumer data industry resource guide, and results of its investigation  
should have provided notice to Defendant of its misleading and inaccurate reporting.

19 34. Defendant failed to notify Experian Information Solutions, Inc. and Equifax, Inc. that  
20 the information Defendant re-reported was inaccurate before the end of 30 business days, in  
21 violation of California Civil Code § 1785.25(a).

22 35. Defendants' communications of false information, and repeated failures to investigate,  
23 and correct their inaccurate information and erroneous reporting were done knowingly,  
24 intentionally, and in reckless disregard for their duties and Plaintiff's rights.

25 36. As a direct and proximate result of Defendants' willful and untrue communications,  
26 Plaintiff has suffered actual damages including but not limited to inability to properly  
27 reorganize under Chapter 7, reviewing credit reports from all three consumer reporting  
28 agencies, time reviewing reports with counsel, sending demand letters, diminished credit score,  
and such further expenses in an amount to be determined at trial.

37. Wherefore, Plaintiff prays for judgment as hereinafter set forth.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment as follows:

- a. For preliminary and permanent injunctive relief to stop Defendants from engaging in the conduct described above;
- b. Award statutory and actual damages pursuant to 15 U.S.C. § 1681n and California Civil Code § 1785.31;
- c. Award punitive damages in order to deter further unlawful conduct pursuant to 15 U.S.C. § 1681n; and California Civil Code § 1785.31
- d. Award attorney's fees and costs of suit incurred herein pursuant to 15 U.S.C. § 1681n & o; California Civil Code § 1785.31;
- e. For determination by the Court that Creditor's policies and practices are unlawful and in willful violation of 15 U.S.C. § 1681n, et seq.; and
- f. For determination by the Court that Creditor's policies and practices are unlawful and in negligent violation of 15 U.S.C. § 1681o;

Dated: April 25, 2016

By:

**SAGARIA LAW, P.C.**

/s/ Elliot Gale, Esq.

Scott Sagaria, Esq.

Elliot Gale, Esq.

Attorneys for Plaintiff

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands trial of this matter by jury.

Dated: April 25, 2016

**SAGARIA LAW, P.C.**

/s/ Elliot Gale, Esq.

Scott Sagaria, Esq.

Elliot Gale, Esq.

Attorneys for Plaintiff